

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROYAL INDEMNITY COMPANY,	§	
as successor in interest to	§	
Globe Indemnity Company,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION NUMBER
	§	
PEOPLES COMMUNITY BANK,	§	2:05cv1127-F
INC.; LARRY PITCHFORD;	§	
JERRY GULLEDGE; HARRIS	§	
LEVESON; HARRIS PEST AND	§	
TERMITE CONTROL, INC.,	§	
	§	
Defendants.	§	

**OPPOSITION OF HARRIS LEVESON AND HARRIS PEST & TERMITE CONTROL
TO PLAINTIFF'S MOTION TO RECONSIDER OR SET ASIDE DISMISSAL**

Come now Defendants Harris Leveson and Harris Pest & Termite Control, Inc., by and through their undersigned counsel, and in opposition to Plaintiff's motion to reconsider or set aside dismissal, state as follows:

On June 27, 2006, this Court dismissed without prejudice Plaintiff's declaratory judgment action. Plaintiff has presented no arguments of a manifest error of law or fact, newly discovered or previously unavailable evidence, manifest injustice or an intervening change in the controlling law sufficient to set aside the order of dismissal. Fed. R. Civ. P. 59. The Brillhart factors weigh in favor of dismissal. Brillhart v. Excess Ins. Co. of America, 316 U.S. 491, 495 (1942) ("Federal district courts may use their discretion to dismiss declaratory actions when the

controversy could be "better settled in the proceeding pending in state court."); Ameritas Variable Life Ins. Co. v. Roach, 411 F.3d 1328 (11th Cir. 2005).

WHEREFORE, PREMISES CONSIDERED, Defendants Harris Leveson and Harris Pest & Termite Control, Inc., respectfully request that Plaintiff's motion to reconsider or set aside dismissal be denied.

Respectfully submitted,

/s/ Ted Taylor

State Bar No. ASB-6435-L75E

/s/ Leah O. Taylor

State Bar No. ASB-9871-A57L

ATTORNEYS FOR DEFENDANTS

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed this Opposition so that service will be sent by the ECMF System via electronic mail to:

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on this the 21st day of July, 2006.

/s/ Leah O. Taylor
Of Counsel